

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PATRICK SCHMALSTIG,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of the Social
Security Administration,

Defendant.

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Case No. 3:15-cv-188

JUDGE WALTER H. RICE

CHIEF MAGISTRATE JUDGE

SHARON L. OVINGTON

DECISION AND ENTRY ADOPTING IN FULL REPORT AND
RECOMMENDATIONS OF UNITED STATES CHIEF MAGISTRATE
JUDGE (DOC. #11); DEFENDANT CAROLYN W. COLVIN,
COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION'S
MOTION FOR REMAND (DOC. #9) IS SUSTAINED IN PART AND
OVERRULED IN PART; JUDGMENT TO BE ENTERED IN FAVOR OF
PLAINTIFF AND AGAINST DEFENDANT COMMISSIONER,
REVERSING THE COMMISSIONER'S DECISION THAT PLAINTIFF
WAS NOT DISABLED AND, THEREFORE, NOT ENTITLED TO
BENEFITS UNDER THE SOCIAL SECURITY ACT, AND REMANDING
THE CAPTIONED CAUSE TO THE COMMISSIONER FOR THE
IMMEDIATE PAYMENT OF BENEFITS CONSISTENT WITH THE
SOCIAL SECURITY ACT; TERMINATION ENTRY

The Court has reviewed the Report and Recommendations of Chief Magistrate Judge Sharon L. Ovington, Doc. #11, to whom this case was referred pursuant to 28 U.S.C. § 636. Further, the Court notes that no objections have been filed thereto, and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired. Based upon the reasoning and citations of authority set forth in the Report and Recommendations, as well as upon a thorough *de novo* review of the entirety of the

Court's file and the applicable law, this Court hereby ADOPTS said Report and Recommendations in their entirety.

Accordingly, the Motion for Remand of Defendant Carolyn W. Colvin, Commissioner of the Social Security Administration ("Commissioner"), Doc. #9, is SUSTAINED IN PART, as to her request that the matter be remanded to the Commissioner, and is OVERRULED IN PART, as to her request for further administrative proceedings. Judgment is to be entered in favor of Plaintiff Patrick Schmalstig ("Plaintiff") and against the Commissioner, reversing the Commissioner's finding that Plaintiff was not disabled, and therefore, not entitled to benefits. The captioned cause is remanded to the Commissioner, under Sentence Four of 42 U.S.C. § 405(g), for the award and immediate payment of benefits to Plaintiff, consistent with the Social Security Act, 42 U.S.C. § 301 *et seq.* Doc. #11, PAGEID #1045.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: June 13, 2016



WALTER H. RICE
UNITED STATES DISTRICT JUDGE